

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ADAM AVERY, ) 8:07CV268  
 )  
Petitioner, )  
vs. ) **MEMORANDUM  
AND ORDER**  
STATE OF NEBRASKA, )  
 )  
Respondent. )

On July 17, 2007, the court entered a memorandum and order directing the petitioner either to file a new petition for habeas relief under 28 U.S.C. § 2254 or else a statement that he is seeking relief from a federal court conviction under 28 U.S.C. § 2255. (Filing 5.) The petitioner was given until August 31, 2007, to make one of these filings, and was advised that his action would be dismissed without further notice if he failed to do so. (*Id.*) Because the petitioner has failed to comply with the July 17th order,

IT IS ORDERED that the petitioner's action is dismissed without prejudice. Judgment shall be entered by separate document.

September 20, 2007.

BY THE COURT:

s/ *Richard G. Kopf*  
United States District Judge